IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO: 3:05CR341

UNITED STATES OF AMERICA,)	
Plaintiff,)	
V.)	ORDER
GERMAN MILLON,	, <u> </u>	<u>5115211</u>
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT pursuant to a handwritten letter from the defendant, German Millon, to United States Magistrate Judge Carl Horn III dated February 19, 2006. In the letter, Mr. Millon again expresses concerns about the performance of his retained attorney, Charles L. Alston, Jr. Mr. Millon appears to ask the Court in his letter either to appoint Mr. Alston to serve as Mr. Millon's lawyer at government expense for the balance of his case, or in the alternative, to excuse Mr. Alston from the case and to appoint the federal defender to represent Mr. Millon for the balance of his case. To the extent Mr. Millon's letter to Judge Horn constitutes a written motion in his case, the motion will be **DENIED** for two separate and distinct reasons.

First, the longstanding position of this Court is that *pro se* motions filed by represented defendants in criminal cases will ordinarily be denied, without prejudice to the defendant's ability to re-file such motions, if appropriate, after consultation with counsel. Mr. Alston continues at this time to serve as counsel to Mr. Millon, and on that basis, this motion is therefore **DENIED**.

In addition, the Court docket reflects that a lengthy hearing was held concerning Mr. Millon's counsel situation before the undersigned on February 16, 2006—a mere three days before Mr. Millon wrote his letter to Judge Horn. At that hearing, which occurred in several installments on the same court day, the Court heard from all parties at some length about these same issues. On that occasion,

Mr. Millon was seeking both to excuse Mr. Alston from further representation of him and to request

that the Court appoint new counsel for him. For the reasons stated at length at the conclusion of the

proceedings on February 16, 2006, Mr. Millon's motion was denied and the Court directed that Mr.

Alston continue to serve as his counsel in this matter. Absent the presentation of new and material

facts, the Court is disinclined to revisit this issue after so short a time.

IT IS THEREFORE ORDERED, for the reasons stated above, that to the extent Mr.

Millon's letter to Judge Horn constitutes a written motion to appoint counsel for Mr. Millon, that

motion is **DENIED**.

Signed: February 28, 2006

David C. Keesler

United States Magistrate Judge